

REMARKS

Claims 1, 6, 7 and 28-30 remain pending in the present application. Claim 1 has been amended. Claims 28-30 are new. Basis for the amendments and new claims can be found throughout the specification, claims and drawings originally filed.

REJECTION UNDER 35 U.S.C. § 102

Claim 1 is rejected under 35 U.S.C. § 102(b) as being anticipated by Mutou (U.S. Pat. No. 4,110,888). Claim 1 has been amended such that the fluid chamber is defined by the end cap, the valve body and the inner cylindrical surface of the pressure tube and that the entire fluid chamber is filled with the pressurized gas.

In Mutou, chamber A is filled with a pressurized gas but free piston 2 which forms chamber A is not fixedly secured to the inner surface of the pressure tube and piston 2 does not have a second flow path extending through it. Thus, stopper 3 in Mutou is the equivalent of the valve body of the present invention because it is secured to the pressure tube and it includes a flow path. The fluid chamber that is defined by stopper 3, end cap 4 and tube 1 of Mutou is not entirely filled with a pressurized gas. As shown in Figure 4, the area between stopper 3 and free piston 2 is filled with hydraulic fluid. (See column 2, lines 12-14).

Thus, Applicants believe Claim 1, as amended, patentably distinguishes over the art of record. Reconsideration of the rejection is respectfully requested.

REJECTION UNDER 35 U.S.C. § 103

Claims 6 and 7 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Mutou in view of Postema, et al. (U.S. Pat. No. 4,139,186). Claims 6 and 7 ultimately depend from Claim 1. As stated above, Claim 1 has been amended and is now believed to patentably distinguish over the art of record. Thus, Claims 6 and 7 are also believed to patentably distinguish over the art of record. Reconsideration of the rejection is respectfully requested.

NEW CLAIMS

New Claims 28-30 are dependent claims ultimately depending from Claim 1. Applicants believe that Claim 28 reads on the elected species and respectfully requests the joinder of Claims 29 and 30.


CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Dated: March 26, 2004

By:


Michael J. Schmidt, 34,007

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303
(248) 641-1600

MJS/pmg